

CONFORMED COPY

LOAN NUMBER 3830 KO

Project Agreement

(Waste Disposal Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

PUSAN CITY

Dated March 3, 1995

LOAN NUMBER 3830 KO

PROJECT AGREEMENT

AGREEMENT, dated March 3, 1995, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and PUSAN CITY (Pusan City).

WHEREAS (A) by the Loan Agreement of even date herewith between Republic of Korea (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to seventy five million dollars (\$75,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Pusan City agrees to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and Pusan City, a portion of the proceeds of the loan provided for under the Loan Agreement will be relent to Pusan City on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS Pusan City, in consideration of the Bank's entering

into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

## ARTICLE I

### Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) Pusan City declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and environmental practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and Pusan City shall otherwise agree, Pusan City shall carry out Part A of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods required for Part A of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. Pusan City shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Part A of the Project.

Section 2.04. Pusan City shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, Pusan City shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) Pusan City shall, at the request of the Bank, exchange views with the Bank with regard to the progress of Part A of the project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Loan.

(b) Pusan City shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Part A of the Project, the accomplishment of the purposes of the Loan, or the performance by Pusan City of its obligations under this Agreement and under the Subsidiary Loan Agreement.

## ARTICLE III

### Management and Operations of Pusan City

Section 3.01. Pusan City shall carry on its wastewater operations in accordance with sound administrative, engineering, financial and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. Pusan City shall at all times operate and maintain its wastewater treatment plants, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and environmental practices.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) Pusan City shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part A of the Project and its wastewater treatment plants.

(b) Pusan City shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Pusan Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

Section 4.02. (a) Except as the Bank shall otherwise agree, Pusan City shall cause its Sewerage Office to produce, for each of its fiscal years after its fiscal year ending on December 31, 1995, funds from internal sources equivalent to not less than 25% of the annual average of Pusan City's Sewerage Office capital expenditures incurred, or expected to be incurred, for that year and the three next following fiscal years.

(b) Before September 30 in each of its fiscal years, commencing on September 30, 1996 and thereafter, Pusan City shall, on the basis of forecasts prepared by Pusan City and satisfactory to the Bank, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Bank a copy of such review upon its completion.

(c) If any such review shows that Pusan City would not meet the requirements set forth in paragraph (a) for Pusan City's fiscal years covered by such review, Pusan City shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its sewerage rates) in order to meet such requirements.

(d) In relation to the Sewerage Office and for the purposes of this Section:

- (i) the term "funds from internal sources" means the difference between: (A) the sum of revenues from all sources related to operations, consumer

deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other than cash; and (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures;

- (ii) the term "net non-operating income" means the difference between: (A) revenues from all sources other than those related to operations; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above;
- (iii) the term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year;
- (iv) the term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year;
- (v) the term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends;
- (vi) the term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt;
- (vii) the term "capital expenditures" means all expenditures on account of fixed assets, including interest charged to construction, related to operations; and
- (viii) whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

#### ARTICLE V

##### Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of Pusan City thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Pusan City thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

## ARTICLE VI

### Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

248423 (RCA)  
82987 (FTCC)  
64145 (WUI) or  
197688 (TRT)

For Pusan City:

City Government of Pusan  
Construction Bureau  
Chung-GU, Pusan  
Republic of Korea

Telex:

Public P K53115  
Ext. 111

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of Pusan City may be taken or executed by the Mayor of Pusan City or such other person or persons as the Mayor of Pusan City shall designate in writing, and Pusan City shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Russell Cheetham  
Regional Vice President  
East Asia and Pacific

PUSAN CITY

By /s/ Shin Myoung Ho  
Authorized Representative

SCHEDULE 1

Procurement of Goods

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines) , and in accordance with the following additional procedures:

(a) When contract award is delayed beyond the original bid validity period, such period may be extended once, subject to and in accordance with the provisions of paragraph 2.59 of the Guidelines, by the minimum amount of time required to complete the evaluation, obtain necessary approvals and clearances and award the contract. The bid validity period may be extended a second time only if the bidding documents or the request for extension shall provide for appropriate adjustment of the bid price to reflect changes in the cost of inputs for the contract over the period of extension. Such an increase in the bid price shall not be taken into account in the bid evaluation. With respect to each contract made subject to the Bank's prior review in accordance with the provisions of Part D.1 (a) of this Section, the Bank's prior approval will be required for (i) a first extension of the bid validity period if the period of extension sixty (60) days and (ii) any subsequent extension of the bid validity period.

(b) In the procurement of goods in accordance with this Part A, the Borrower shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, the Borrower shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

Part B: Preference for Domestic Manufacturers

1. In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in the Republic of Korea may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Items or groups of items for materials and equipment estimated to cost the equivalent of \$250,000 or less per contract, up to an aggregate amount equivalent to \$3,000,000,

may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

#### Part D: Review by the Bank of Procurement Decisions

##### 1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods estimated to cost the equivalent of \$1,000,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Pusan Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Pusan Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Pusan Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 3 to this Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

3. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

#### SCHEDULE 2

##### Implementation Program

1. In order to assist Pusan City in the supervision of the construction of the facilities provided under Part A of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank.

2. Pusan City shall adopt by June 30, 1998 and thereafter implement an environmental monitoring program, satisfactory to the Bank, to collect and evaluate data on Janglim plant performance and environmental impact. On the basis of such data collected and evaluated, Pusan City shall, by no later than June 30, 1999 or such later date as the Bank shall otherwise agree, prepare and furnish to the Bank, for its review and comments, a plan to mitigate the potential adverse impacts arising from the operation of the Janglim plant, and, thereafter, taking into account the Bank's comments, implement such plan.

3. Without limitation to the provisions of Section 9.06 of the General Conditions, Pusan City shall:

(a) on March 31 and September 30 of each year, commencing on March 31, 1996, and thereafter until the completion of the Project, furnish to the Bank semi-annual progress reports on the carrying out of Part A of the Project, satisfactory to the Bank, including revised cost estimates and implementing schedules; and

(b) on September 30 of each year, commencing on September

30, 1996 and thereafter until the completion of the Project, furnish to the Bank annual reports on the financial projections of its wastewater activities, satisfactory to the Bank.

### SCHEDULE 3

#### Pusan Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Category (1) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$3,000,000 to be withdrawn from the Loan Account and deposited in the Pusan Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$1,000,000 until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$10,000,000.

2. Payments out of the Pusan Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Pusan Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Pusan Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the Pusan Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Pusan Special Account, the Borrower shall furnish to the Bank requests for deposits into the Pusan Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Pusan Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Pusan Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified



by said documents and other evidence.

4. For each payment made by the Borrower out of the Pusan Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Pusan Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of the Loan Agreement;

(b) if the Borrower shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Pusan Special Account;

(c) if, at any time, the Bank shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Pusan Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Pusan Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Pusan Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Pusan Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Pusan Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Pusan Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

